IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 343 OF 2006
IN
CRIMINAL APPEAL NO. 2 OF 2005

Santosh Lotan Basaine ..Applicant
(Ori.Accused No.4)
versus
State of Maharashtra ..Respondents

Mr. A. Majeed Memon for the Applicant - original Accused No.4.
Mrs. A. S. Pai, APP for the Respondents - State.

CORAM : D. G. DESHPANDE, &
S. A. BOBDE, JJ.

DATE : 14TH JUNE, 2006

P.C. :

1. Heard Advocate for the Applicant - Original Accused No. 4 and learned APP for the State.

2. This is an application filed by applicant - accused No. 4 who has been convicted under Section 302. Counsel for the applicant - accused No. 4 contended that other accused had been granted bail by this Court, in Criminal Application No. 15 of 2005 in this very Appeal on 27.6.2005 presided over by Bench of Palshikar & Chavan, JJ., and, therefore, on parity, the applicant- accused should also be granted bail. The said order is annexed to the Application at Exhibit 'A'.

3. We, do not think that the case of the present applicant- accused No. 4 can be considered on parity with other accused. The role attributed to the applicant - accused No. 4 is that he has used trident by which he caused two injuries on the vital parts of the victim, one on the chest and other on the abdomen. The said order dated 27.6.2005 does not disclose any reasons upon which bail was granted to other accused.

4. Counsel for the applicant - accused No. 4 tried to contend that the complainant and his friends were the assailants and the accused were defending, and, therefore, it could happen that trident brought by the complainant’s side was used.

5. We, are not impressed by this argument. There is positive evidence of the prosecution against the present applicant - accused No. 4 regarding his role in the death of Rahul. Therefore, prayer for bail is rejected. Application for bail is rejected.

(D.G. DESHPANDE, J.)

(S.A. BOBDE, J.)